

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

FILED  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA

2008 APR 23 PM 12:21

  
DEPUTY CLERK

UNITED STATES OF AMERICA, )  
*ex rel.* GLENIS D. SANDERS and )  
MELANIE C. LESTER )

Plaintiffs, )

v. )

KINDRED HEALTHCARE, INC. d/b/a )  
WARNER ROBINS REHABILITATION )  
AND NURSING CENTER, et al., )

Defendants. )

CIVIL ACTION NO.  
5:05-CV0380

**FILED UNDER SEAL**

**THE UNITED STATES' NOTICE OF ELECTION TO  
DECLINE INTERVENTION**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, the relators have the right to maintain this action under 31 U.S.C. § 3730(c)(3). The United States respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which provides that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." *Id.* Therefore, the United States requests that, should either the relators or the defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves

its right to order any deposition transcripts and to intervene in this action, for good cause, at a later date. The United States also requests that it be served with all notices of appeal.

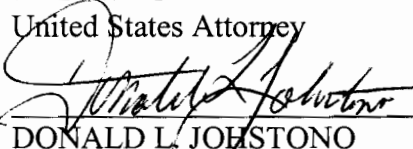
Finally, the United States requests that the relators' Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because, in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

Respectfully submitted, this April 23, 2008.

JEFFREY S. BUCHOLTZ  
Acting Assistant Attorney General

MAX WOOD  
United States Attorney



DONALD L. JOHNSTON  
Assistant United States Attorney  
P.O. Box 1702  
Macon, GA 31202  
Tel: (478) 621-2700  
Fax: (478) 621-2737



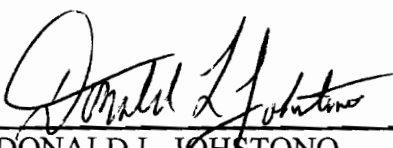
JOYCE R. BRANDA  
POLLY A. DAMMANN  
ALLISON CENDALI

Attorneys, United States Department of Justice  
Civil Division  
Post Office Box 261  
Ben Franklin Station  
Washington, DC 20044  
Tel: (202) 616-4232  
Fax: (202) 514-0280

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this April 23, 2008, a true and correct copy of the foregoing Notice of Election to Decline Intervention and proposed Order were mailed by first-class mail to:

John Hawk, Esq.  
Christy Crow Childers, Esq.  
Sell & Melton, L.L.P.  
577 Mulberry Street  
Fourteenth Floor  
Macon, GA 31201  
*Counsel for Relators*

  
\_\_\_\_\_  
DONALD L. JOHSTONO  
Assistant United States Attorney